

N. KEITH CHAMBERS  
EXECUTIVE DIRECTOR

**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF:	)	
	)	
AMECA RUTTLEY,	)	Charge No. 2007CF3016
	)	ALS No. 08-235
Complainant,	)	
	)	
and	)	
	)	
GREATER AURORA CHAMBER	)	Judge Reva S. Bauch
OF COMMERCE,	)	
	)	
Respondent.	)	

**RECOMMENDED ORDER AND DECISION**

This matter is brought pursuant to Respondent's Motion to Dismiss for Lack of Jurisdiction ("Motion") with supporting documents. Complainant had until September 5, 2008 to respond to this Motion. No response was filed. Accordingly, this matter is now ready for disposition.

The Illinois Department of Human Rights ("Department") is an additional statutory agency that has issued state actions in this matter. Therefore, the Department is an additional party of record.

**FINDINGS OF FACT**

The following facts were derived from the record file in this matter.

1. Complainant filed a charge alleging religious and racial discrimination on or about May 15, 2008.
2. Complainant alleged that the discrimination occurred between April 2007 and May 2007.
3. During all times relevant to Complainant's charge of discrimination, Respondent employed no more than six individuals.

4. On August 20, 2008, the Commission entered an Order setting a briefing schedule for the Motion.

5. Respondent filed a Certificate of Service stating that it served a copy of the Order on Complainant via Certified and regular U.S. Mail.

### **CONCLUSIONS OF LAW**

1. Respondent is not an "employer" as defined in the Illinois Human Rights Act ("Act").

2. The Commission lacks jurisdiction over Respondent with respect to the instant Complaint.

### **DISCUSSION**

Pursuant to the Act, an "employer" is defined as any person employing fifteen or more employees during twenty or more calendar weeks within either the calendar year of the alleged violation or the calendar year immediately preceding the year of the alleged violation. 775 ILCS 5/2-101(B)(2)(a). An assessment of the number of employees for purposes of 775 ILCS 5/2-101(B)(2)(a) can be determined through payroll records and State Contribution and Wage Reports for the applicable period of time. *Hinton and Jasper Engine and Transmission Exchange, IHRC, 7490, Sept. 6, 1996.* During all times relevant to Complainant's charge of discrimination, Respondent employed no more than six individuals. This is ascertained through Respondent's payroll records. As the Respondent did not employ fifteen or more employees during 2007 and/or 2006, the Act is not applicable and the Commission lacks jurisdiction.

In addition, Complainant has not filed any response to the Motion. Thus, Complainant has not submitted any evidence which contravenes Respondent's competent evidence showing that it is not an employer under the Act. Complainant's failure to do so results in Respondent's evidence being accepted as true. *Id.* The Commission has held that a dispositive motion should be granted where it appears on its

face to be valid and the Complainant has failed to file a response. *Jones and Burlington Northern Railroad*, 25 Ill. HRC Rep. 101 (1986).

### **RECOMMENDATION**

I recommend the Commission dismiss the Complaint, and the underlying charge, with prejudice.

### **HUMAN RIGHTS COMMISSION**

BY: \_\_\_\_\_  
REVA S. BAUCH  
DEPUTY CHIEF ADMINISTRATIVE LAW JUDGE  
ADMINISTRATIVE LAW SECTION

**ENTERED: September 18, 2008**